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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,319	07/20/2006	Markus Gerardus Leonardus Maria Van Doorn	US040053US2	9285
24737	7590	10/15/2008		
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			EXAMINER	
P.O. BOX 3001			EKPO, NNENNA NGOZI	
BRIARCLIFF MANOR, NY 10510			ART UNIT	PAPER NUMBER
			2425	
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			10/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,319	VAN DOORN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nnenna N. Ekpo	2425	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/20/2006</u> .  | 6) <input type="checkbox"/> Other: ____.                          |



## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The reference listed in the Information Disclosure Statement filed on July 20, 2006 has been considered by the examiner (see attached PTO-1449 form).

### ***Specification***

2. The abstract of the disclosure is objected to because abstract is not on a separate page. Correction is required. See MPEP § 608.01(b).

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.

- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
  - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
  - (i) DETAILED DESCRIPTION OF THE INVENTION.
  - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
  - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
  - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

### ***Claim Objections***

4. **Claims 8-10** are objected to because of the following informalities:
- a) **On lines 5 and 7 of claim 8**, delete "a" and add --said-- or --the-- before "program segment" since this is not the first time program segment is being mentioned.
- Since **claims 9-10** are dependent on claim 8, they inherit the same problem.
- Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-4 and 7-9** are rejected under 35 U.S.C. 102(b) as being anticipated by Eldering et al. (U.S. Patent No. 6,457,010).

Regarding **claim 1**, Eldering et al. discloses a user profiling system comprising (see cited portion, but not limited to col. 4, lines 9-17):

a user input device configured to enable a user to input user command/control selections (see cited portion, but not limited to col. 7, lines 23-30);

a processor operatively coupled to the user input device and configured to receive the user command/control selections (see cited portion, but not limited to col. 7, lines 31-39), wherein the processor is configured to identify volume related command/control selections and to utilize identified volume related command/control selections as an input into a user profile (see cited portion, but not limited to col. 8, lines 8-17, col. 13, lines 21-29).

Regarding **claim 2**, Eldering et al. discloses everything claimed as applied above (see *claim 1*). Eldering et al. discloses the profiling system wherein the processor is configured to identify a previously established volume level of reproduced content and to compare the identified volume related command/control selections to the previously established volume level (see cited portion, but not limited to col. 9, lines 25-47, abstract, figs 6, 7).

Regarding **claim 3**, Eldering et al. discloses everything claimed as applied above (see *claim 1*). Eldering et al. discloses the profiling system comprising a remote control device having the user input device (see cited portion, but not limited to col. 7, lines 23-30, fig 2 (200)).

Regarding **claim 4**, Eldering et al. discloses everything claimed as applied above (see *claim 1*). Eldering et al. discloses the profiling system comprising a memory (204) operatively coupled to the processor (203) and configured to store the user profile (data) (see cited portion, but not limited to col. 7, lines 31-39, fig 2 (200)).

Regarding **claim 7**, Eldering discloses a method of determining user profile data for a profiling system, the method comprising (see cited portion, but not limited to col. 4, lines 9-17):

receiving a user command/control selection (see cited portion, but not limited to col. 7, lines 23-30);

determining whether the received user command/control selection is a volume related command/control selection (see cited portion, but not limited to col. 7, lines 23-55, col. 8, lines 8-17);

storing profile data related to the received user command/control selection if the received user command/control selection is a volume related command/control selection (see cited portion, but not limited to col. 6, lines 29-38).

Regarding **claim 8**, Eldering et al. discloses a program portion, stored on a processor readable medium for use with a user profiling system, the program portion comprising:

a program segment for analyzing received user command/control selections relating to currently reproduced content (see cited portion, but not limited to col. 9, lines 25-47);

a program segment for determining whether the received user command/control selection is a volume related command/control selection (see cited portion, but not limited to col. 7, lines 23-55, col. 8, lines 8-17, col. 9, lines 25-47); and

a program segment for initiating a storing of profile data related to the received user command/control selection if the received user command/control selection is a volume related command/control selection (see cited portion, but not limited to col. 6, lines 29-38).

Regarding **claim 9**, Eldering et al. discloses everything claimed as applied above (see *claim 8*). Eldering et al. discloses the program portion wherein the program segment for initiating the storing of profile data related to the received user command/control selection comprises a program segment for initiating storing of data indicating a user preference if the received user command/control selection is a volume increase related command/control selection (see cited portion, but not limited to abstract, fig 5, col. 2, lines 14-22, col. 5, lines 14-24, col. 6, lines 29-38, col. 9, lines 25-48, col. 12, lines 42-50, col. 13, lines 21-29).



***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 5, 6 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering et al. (U.S. Patent No. 6,457,010) as applied to *claims 1, 5 and 8* above, and further in view of Gutta (WO 01/45408).

Regarding **claim 5**, Eldering et al. discloses everything claimed as applied above (see *claim 1*). Eldering et al. discloses the profiling system comprising a memory (204) operatively coupled to the processor (203) and configured to store the user profile (data) (see cited portion, but not limited to col. 7, lines 31-39, fig 2 (200)).

However, Eldering et al. fails to specifically disclose wherein the processor is configured to provide recommendation of content based on the stored user profile.

Gutta discloses wherein the processor is configured to provide recommendation of content based on the stored user profile (see cited portion, but not limited to abstract, page 3, lines 23-page 4, line 10).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Eldering et al.'s invention with the above mentioned limitation as taught by Gutta for the advantage of providing user with programs they are interested in.

Regarding **claim 6**, Eldering et al. and Gutta discloses everything claimed as applied above (*see claim 5*). Gutta discloses the profiling system wherein the processor is configured to provide recommendations of content comprising at least one of audio and audiovisual content (see cited portion, but not limited to page 4, lines 28-32).

Regarding **claim 10**, Eldering et al. discloses everything claimed as applied above (*see claim 8*). However, Eldering et al. fails to specifically disclose Gutta discloses the program portion further comprising a program segment for providing recommendation of content based on the stored user profile.

Gutta discloses the program portion further comprising a program segment for providing recommendation of content based on the stored user profile (see cited portion, but not limited to abstract, page 3, lines 23-page 4, lines 32, fig 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Eldering et al.'s invention with the above mentioned limitation as taught by Gutta for the advantage of providing user with programs they are interested in.

### ***Citation of Pertinent Prior Art***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Schaffer et al.** (U.S. Publication No. 2002/0104087) discloses methods and apparatus for making recommendation to users.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nnenna N. Ekpo/  
Examiner  
October 1, 2008.  
/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623